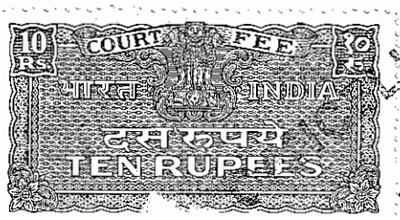

Division Bench

IN THE HON'BLE HIGH COURT OF CHHATTISGARH

AT BILASPUR

M.A. [C] 170 / 2007 [D.B.]

APPELLANT : MARYADI DEVI,
W/O LATE SHRI KALPNATH YADAV @ KALPU ,
R/O BEHIND KOHKA MEDICAL STORE ,
KOHKA , BHILAI, TAH. & DISTT. DURG.

V/S

RESPONDENTS : 1. ARVIND NATH, Through : AMI PANKAJ MODI,
B/6, AYODHYA NAGARI, JADESHWAR,
TAH. & DISTT. BHARUCH GUJRAT. 392001.

2. AMI PANKAJ MODI , B/6 AYODHYA NAGARI ,
JADESHWAR, TAH. & DISTT. BHARUCH,
GUJRAT. 392001.

3. UNITED INDIA INSURANCE COMPANY LTD.
THROUGH : DIVISIONAL MANAGER,
KACHERI ROAD, RAIPUR.DISTT. RAIPUR.

APPEAL U/S 173 MOTOR VEHICLE ACT, 1988 FOR ENHANCEMENT

14

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 170 OF 2007

APPELLANT Maryadi Devi

Versus

RESPONDENTS Arvind Nath & Others

Present : Shri Amiyakant Tiwari, counsel for the appellant.

None for the respondents.

ORAL ORDER
(Passed on 14th February, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") filed by the appellant/claimant, who is mother of deceased Heera Lal, for enhancement of compensation, against the award dated 3-8-2006 passed by the Seventh Additional Motor Accident Claims Tribunal (Fast Track Court), Durg (henceforth "the Tribunal") in Claim case No.38 of 2005.

(2) The factual matrix of the case, in brief, is that on 14-9-2000 when Heera Lal (since deceased) was travelling in an auto rickshaw bearing registration No. GJ-5-TT/1711, respondent No.1 (driver) driving tempo bearing registration No.GJ-16-8384 in a rash and negligent manner dashed the auto rickshaw, resultantly Heera Lal sustained injuries and succumbed to those. Appellant – mother of the deceased filed an application under Section 166 of the Act, 1988 for compensation against respondents, who are driver, owner and insurer of the offending vehicle.

Respondents No.1 and 2 remained *ex parte* whereas respondent No.3 contested the claim.

(3) Learned Tribunal after appreciating the evidence adduced by the appellant, awarded compensation vide impugned award as below :

S.No.	Head	Amount
1.	Dependency	1,80,000=00
2.	Love & Affection	5,000=00
3.	Funeral Expenses	2,000=00
	T o t a l :	**1,87,000=00**

(4) Learned counsel for the appellant contended that the Tribunal erred in recording the income of the deceased, and thereby awarding compensation on lower side.

(5) We perused the award passed by the Tribunal. Claimant is the mother of the deceased, who is aged about 50 years. There is no legal evidence to prove the income of the deceased, however, learned Tribunal in view of existing labour charges, recorded annual dependency as Rs.12,000/- and applying multiplier of 15, allowed compensation towards dependency. Although multiplier applied by the Tribunal is on higher side, yet in absence of objection or counter appeal, that cannot be interfered with.

(6) We do not find any perversity or infirmity in the finding recorded by the Tribunal so as to condemn it. In the result, the appeal being devoid of substance deserves to be dismissed summarily and is accordingly dismissed *in limine*. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Gowri